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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1996

Addendum

Gabon

[21 June 2000]

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Introduction

1. One of the main characteristics of the population of Gabon is that it is young. According to demographic statistics, 45 per cent of the population are under 15 years of age and 47.6 per cent under 18, the age limit considered by the Convention on the Rights of the Child in its definition of a child. This gives rise to many problems, especially since the population is mostly urban (70 per cent) and since deviance and juvenile delinquency are above all urban phenomena from which Gabon cannot escape.

2. In order to afford better protection for its young people, whose importance for the future of Gabon everyone fully understands, the Government ratified the Convention on the Rights of the Child on 9 February 1994. By the same occasion it undertook to send regular reports to the Committee on the Rights of the Child regarding the implementation of the Convention, showing the results achieved and the obstacles encountered in that respect.

3. The submission of this initial report, which was due two years after the entry into force of the Convention in Gabon, i.e. 1996, has been somewhat delayed, due to the lack of facilities available for implementing the Convention.

4. The Government of Gabon, through its Ministry of Human Rights, is grateful to the United Nations Children's Fund (UNICEF) for its help in drafting this report. In view of the special circumstances in which it was prepared (insufficient dissemination of the Convention, lack of reliable national data), this initial report is chiefly intended to serve as a reference document for the preparation of the periodic reports that the Government will subsequently be submitting to the Committee on the Rights of the Child.

5. The references used of the initial report are:

- The Convention on the Rights of the Child;

- The comparative study of national laws, the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, which was carried out in 1998 by Ms. Honorine Nstame Allogo, spouse of Znet Biteghet, magistrate and UNICEF consultant in Libreville.

6. This report was drafted by public administration officials and members of associations and non-governmental organizations dealing with the problems of children, with the assistance of a UNICEF consultant. It includes an introduction, a description of the national context and an analysis of the Convention on the Rights of the Child.

PART ONE: THE NATIONAL CONTEXT

I. Land and people

A. Land

7. Gabon covers an area of 268,000 km^2. It has a population of a little over 1 million inhabitants, which is growing at the rate of 2.5 per cent a year. Three quarters of Gabon's territory is covered in tropical forest, a large part of which is uninhabited. The forest area, two thirds of which is virgin, i.e. relatively intact, is home to over 8,000 plants and 600 species of birds, as well as one of the largest elephant populations in Africa.

Table 1: Geography

Area	268 000 km^2
Coastline	800 km
Forested area (per cent)	85

8. Gabon also has abundant natural resources, such as oil, timber, manganese and uranium.

9. Gabon's per capita gross national product (GNP) is one of the highest in sub-Saharan Africa (US$ 7,550 in 1999). Its social indicators, however, are comparable to or even below those of some of the poorest African countries. The Human Development Report 1999 of the United Nations Development Programme (UNDP) shows a gap of 71 places between Gabon's ranking according to the human development index (HDI), where it comes 124th out of 174 countries, and its ranking according to per capita GDP, which places it 53rd out of 174 countries worldwide.

10. Gabon is a very urbanized country. One of the direct consequences of its rapid urbanization has been the degradation of the environment, leading to a deterioration in conditions of hygiene and health standards. Apart from the three main economic centres (Libreville, Port-Gentil and Franceville-Moanda), the other urban centres in many cases are more like large villages, characterized by a lack of infrastructures (water, electricity and access roads), inefficient health and social services and an agriculture-based lifestyle.

11. In contrast, the countryside is "empty". Settlements are few and far between (in almost half the country population density is only 1.4 inhabitants per km^2). Moreover, the rural population is actually decreasing and ageing noticeably, with a majority of women (52 per cent), particularly in the 20/25 age group (58 per cent).

B. People

Table 2: Population

Indicators	1960	1993	1994
Total population (thousands)		1 014	1 014.9
Women		51.3 %	51%
Men		50.1%	49%
Rural/urban ratio	87/13	27/73	27/73
Number of births		25 000	25 627
Number of deaths before the age of 5		4 000	
Total growth rate		2.5%	-
Urban growth rate		6%	
Synthetic fertility index		5.2	-
Number of households		195 067	-
Average size of households		5.30	
Proportion by age group			
0-5 years		18%	
6-16 years		27%	
Number of women of child-bearing age (15-49 years)		231 272	237 400
Gross birth rate		36%	35.9%
Death rate	30%	16%	15.7%
Life expectancy at birth	41	52.9	

Sources: General Population and Habitat Census (1993) and Yearbook of Statistics (1994).

12. The population of Gabon has more than doubled in the last 30 years. According to the General Population and Habitat Census carried out in 1993, Gabon has a population of 1,014,976 inhabitants. The population increase in the period 1960-1993 was marked by rural exodus and immigration from bordering countries and from France.

13. Immigrants, attracted by a flexible labour market in Gabon and the country's economic prosperity, now make up 15 per cent of the population. Another noteworthy fact is that the growth rate of the population, which was relatively low at the beginning of the period, rose over the last 20 years, partly thanks to a noticeable drop in the prevalence of sterility. The definitive sterility index for women aged 45 to 54 fell from 32 per cent in 1960 to 17 per cent in 1993.

14. Gabon's population is very young: 41 per cent are aged under 15. The age and sex structure of the population in the 1960, 1970 and 1993 censuses reflects two phenomena: the incidence of sterility and the impact of immigration.

15. Unusually for sub-Saharan Africa, the urban population accounts for 73 per cent of the total. Geographic distribution is uneven, however, since the main cities - Libreville, which is the administrative capital (419,596 inhabitants), and Port-Gentil, the country's economic capital (79,225 inhabitants) - between them contain 49 per cent of the population.

16. In Libreville and in Port-Gentil, only one Gabonese head of household out of five was born in the cities, with the remainder coming from rural areas. Almost one Gabonese head of household out of five came to the capital city aged between 6 and 15 (educational migration). In Port Gentil, the proportion is one in seven. Occupational migration is greater there than in Libreville, owing to the activities of the oil industry. In both towns, internal immigration is twice as high as foreign immigration.

17. Three provinces "benefited" from this urban growth and appear as the most dynamic: Estuaire, Ogooué Maritime and Haut-Ogooué. This rural exodus creates a real problem from the point of view of development owing to the growing shortage of rural labour. Among the other towns, Franceville, Moanda and Mounana specialize in mining activities, although agriculture is gaining ground.

18. Five provinces have more rural inhabitants than urban. They are Moyen-Ogooué (18,726 urban and 40,261 rural), Ogooué-Ivindo (17,775 urban and 31,087 rural), Ogooué-Lolo (19,379 urban and 23,536 rural) and Woleu-Ntem (35,094 urban and 62,177 rural).

19. The urban population is much younger than the rural population (47.6 per cent under the age of 18 in towns compared with 42.7 per cent in the countryside). Men are more concentrated in urban areas (99.5 per cent of men compared with 91.3 per cent of women). The same goes for foreign communities (22.8 per cent of foreigners among the 18-and-over age group live in towns, compared with 7 per cent in rural areas). Half the inhabitants of the capital are aged under 17.

20. In Gabon, the town has both an administrative and a political connotation. All departmental capitals are considered to be towns, regardless of the size of their population. Town populations vary from 100,000 to 419,500 inhabitants (the case of Libreville). According to these definitions, Gabon has 47 towns, 1 for each of the 45 departments, plus the commune of Mounana, in the Haut-Ogooué, and Libreville, the capital.

21. Foreigners account for about 15.2 per cent of the population. They include mostly other African nationalities, who were attracted by the economic boom of the 1970s. As a result of the economic crisis of 1986, aggravated by the recent devaluation of the CFA franc, some 55,000 foreigners have been encouraged to return to their countries of origin.

1. Ethnic groups

22. Some 40 ethnic groups live in Gabon, the most important of which are the Fang, Nzebi, Kota-Kele, Mbede-Teke, Okande-Tsogho and Shirpunu.

2. Languages

23. The Gabonese Republic has adopted French as its official or administrative working language. Individual groups and sub-groups speak their own mother tongues, known as dialects. The country also tries to protect and promote national languages (by introducing them, on an experimental basis, in some secondary schools).

3. Religions

24. Catholic and Protestant missionaries and a few isolated Muslims were living in Gabon until 1960. Nowadays, the population of Gabon is mostly Christian. Catholics are in the majority, followed by Protestants. Muslims remain a tiny minority.

II. Political, administrative and socio-economic framework

A. Political context

25. Until 1990, the Gabonese political system tended to be monocephalous, with considerable power vested in the executive branch, especially after the introduction of a single-party system in 1968. Parliament used to play an insignificant role, despite the introduction of the motion of no-confidence in 1981. The advent of democracy in Africa, however, with the holding of the National Conference in March and April 1990, brought about the following changes in the country's political institutions:

- Replacement of the single party by a multi-party system;
- Adoption, in 1990, of a National Charter of Freedoms, for the safeguard of fundamental freedoms, including freedom of expression, freedom of association and press freedom;
- Establishment of a new semi-presidential type of regime, following the adoption of a new Constitution, on 28 May 1990, subsequently replaced by the Constitution of 26 March 1991, amended on 18 March 1994;
- Establishment of new institutions such as the National Council for Communication, Constitutional Court, Judicial Court, Court of Accounts, Administrative Court, Senate and National Council for Democracy;
- Reform of existing institutions, such as the Economic and Social Council and the National Assembly;
- Sharing of executive power between the President of the Republic, assisted by a Vice-President, and the Prime Minister, assisted by a Deputy Prime Minister;
- Improved balance between executive and legislative branches, with reciprocal judicial means of pressure and sanctions.

B. Administrative organization

26. The national territory is divided into nine provinces, 50 communes and 45 departments (headed by prefects), and further into districts, 146 cantons and 1,993 villages. The province is the largest and most important administrative sub-division. The provincial capital is known as the chief town (chef-lieu) and is headed by a governor.

27. The departmental assemblies, established in December 1980, probably offer the most active opportunities for participation in community development. They have replaced local authorities and each assembly has a council headed by an elected president. Their main role is to manage local interests. A bill is in preparation to reactivate the decentralization of powers at the local government level.

28. All chief towns of departments have been established as communes since 1996. A commune has a municipal council headed by a mayor elected from among municipal counsellors, who are themselves elected. The size of the councils varies according to the size of the commune's population. The commune of Libreville is divided into six constituencies, each of which has an elected municipal council headed by an elected deputy mayor.

C. Socio-economic indicators

29. The Government's economic policy aims to combine five objectives:

- Reactivation of the non-oil sector through liberalization and diversification of the economy, while establishing a climate of trust with the business sector through the substantial repayment of the internal debt;
- General control of public expenditure;
- Improved budgetary management and control mechanisms;
- Reduced personal taxation through a review of tax rates;
- Introduction of tax credits for businesses for the creation of jobs for young Gabonese.

Table 3: Economy

Per capita GNP	US$ 7 750
Primary sector as proportion of GDP	50%
Oil sector	39%
Agriculture	6%
Timber	3%
Secondary sector as proportion of GDP	12%
Tertiary sector as proportion of GDP	27%
Outstanding debt as percentage of GDP	90%
Debt service as percentage of the budget	40%
Debt service as percentage of exports	20%

1. GDP trend

Table 4: GDP trend

	1995	1996	1997
GDP TOTAL	2 475.20	2 821.80	2 954.20
GDP excluding oil products	1 489.50	1 623.00	1 757.00
Oil sector GDP	985.70	1 198.80	1 197.20

Source: DGE.

30. GDP growth in 1997 was attributed chiefly to the performance of the non-oil sector, to an 8.5 per cent rise in domestic demand and to steady sales of the main export products. However, the contribution of the oil sector stagnated in 1997 owing to a lower valuation of output following a drop in the price of oil.

31. GDP cost components should grow considerably, especially investment in the non-oil sector, which should rise by 20.1 per cent. Government expenditure on goods and services had the effect of raising total consumption, which increased by 7.7 per cent in 1997 despite the late implementation of the budget.

32. All these efforts were unfortunately checked by the serious financial crisis which affected Gabon in 1999, caused mainly by a drop in the prices of raw materials and the burden of debt servicing.

2. Salaries

33. The private sector wage bill should grow by 8 per cent owing to wage drifts, continued growth and the impact on employment of the measures agreed on at the "97 Consultation" meetings. During the first half of 1997, consumer price indexes registered constant growth. The consumer price index for high-income households (155 articles) showed low but steady growth, while the index for low-income households (125 articles) followed a see-saw pattern.

3. Structural measures

34. The Government is committed to pursuing and consolidating measures implemented in the framework of the current medium-term adjustment programme.

Improvement of the legal and institutional framework

35. In 1997, specific measures were taken, of which the most important were:

- Reduction of corporation tax from 40 per cent to 35 per cent for tax years starting 1 January 1997;

- Fixed registration fees for deeds and transfers;

- Discontinuation since 1 July 1997 of the lump-sum payment by employers and of the vocational training tax provided for under the General Code for Direct and Indirect Taxes;

- Repeal of Decree No. 28/87 of 2 October 1987, requiring payment for the processing of customs clearance documents by computer.

36. In 1998, efforts to manage the economy continued in the following areas:

- Relations between the State and corporations. In this respect, the Government should change its attitude to ensure that these relations, which are often seen as antagonistic, become complementary and cooperative;

- Economic management. The Government, with the help of the Bretton Woods institutions, has been trying, since the implementation of the structural adjustment programme, to improve the country's macroeconomic situation and to maintain sustainable balances;

37. In its pursuit of an economic and social development strategy based on the expansion of the private sector, the Government implemented its Investment Charter in 1998.

38. The Charter will aim to:

- Promote and process investments, regardless of origin;

- Reduce administrative formalities needed to set up companies by introducing a single window and an investment promotion agency;

- Adapt the Labour Code to the present situation;

- Bring educational and vocational training into line with the needs of the labour market;

- Adapt the resources of the financial sector to investor requirements.

III. General legal framework

39. The Constitution provides for the separation of executive, legislative and judicial powers.

A. General legal context

1. The Constitution

40. The preamble to the Constitution affirms the Gabonese people's commitment to basic human rights and fundamental freedoms, as embodied in the 1948 Universal Declaration of Human Rights, the 1981 African Charter on Human and People's Rights and the 1990 National Charter of Freedoms.

41. The judiciary is the guardian of individual and collective freedoms insofar as it constitutes the citizen's last defence against arbitrary authority and injustice. In exercising their functions, judges are subject only to the authority of the law.

2. The judiciary

42. According to article 67 of the Constitution (Act No. 1/94 of 18 March 1994), justice is dispensed in the name of the Gabonese people by the Constitutional Court, the Judicial Court, the Administrative Court, the Court of Accounts, the Courts of Appeal, the Tribunals and the High Court of Justice.

43. According to article 69 of the Constitution, the President of the Republic is the guarantor of the independence of the judiciary in conformity with the provisions of the Constitution, especially article 36. He is assisted by the High Council of the Magistrature and the Presidents of the Judicial Court, Administrative Court and Court of Accounts.

3. The Judicial Court

44. According to article 73 of the Constitution, the Judicial Court is the highest court in civil, commercial, social and criminal matters. It is divided into civil, commercial, social and criminal chambers.

45. Each chamber deliberates separately in accordance with its area of competence. All the chambers of the Judicial Court can sit together in certain circumstances laid down by law. Judgements have the force of absolute res judicata.

4. The Administrative Court

46. According to article 74 of the Constitution, the Administrative Court is the highest State Court in all administrative matters. In addition to litigation, it exercises consultative and administrative functions.

5. The Court of Accounts

47. According to article 76 of the Constitution, the Court of Accounts is in charge of supervising public finances. Its duties are as follows:

- It supervises the implementation of Finance Acts and reports to Parliament and the Government;

- It verifies that the revenues and expenditures described in the public accounts are in order and, on the basis of the latter, monitors the proper use of credits, funds and assets managed by State services or public-law corporations;

- It audits the accounts of and rules governing public enterprises and publicly funded bodies;

- It judges the accounts of public accountants;

- It declares and audits unauthorized accounts;

- It penalizes errors of management committed to the detriment of the State by local authorities and any bodies under its supervision.

6. The Constitutional Court

48. According to articles 83-87 of the Constitution, the Constitutional Court is the highest State Court in constitutional matters. It judges the constitutionality of laws and guarantees the fundamental rights of the human person and civil liberties. It is responsible for regulating the activities of institutions and public authorities.

49. The Constitutional Court holds mandatory power to rule on:

- The constitutionality of organic laws, acts prior to promulgation and regulations which might infringe the fundamental rights of the human person and civil liberties;

- The rules of procedure of the National Assembly, Senate, National Communication Council and Economic and Social Council prior to implementation with regard to conformity with the Constitution;

- Conflicts of powers between State institutions;

- The legality of presidential and parliamentary elections, as well as referendums, of which it announces the results.

50. The Constitutional Court deals with all disputes concerning the validity of elections, at the request of any elector, candidate, political party or government representative under the terms of the organic law. Organic laws must be submitted by the Prime Minister to the Constitutional Court prior to promulgation. Other categories of laws and regulations may be referred to the Constitutional Court, by either the President of the Republic, the Prime Minister, the presidents of the Chambers of Parliament or by one tenth of the members of each Chamber, or by the presidents of the Judicial Court, the Administrative Court or the Court of Accounts or by any citizen or corporation affected by the contested legislation.

51. The Constitutional Court issues its rulings, according to the rules of adversarial procedure laid down in the organic law, within one month. However, at the request of the Government or in case of emergency, this period may be shortened to eight days. Any appeal suspends the dates of promulgation of laws and the application of regulations.

52. Any provision which is declared unconstitutional cannot be promulgated or applied. Any defendant may, in proceedings before an ordinary court, challenge the constitutionality of any law or regulation that disregards his fundamental rights. The judge on the bench will then raise an interlocutory plea before the Constitutional Court.

53. The Constitutional Court must issue a ruling within one month. If the law which has been challenged is declared unconstitutional, the law ceases to be effective from the time of the judgement. During its next session, the Parliament under a remittal procedure examines the consequences arising from the Court's ruling of unconstitutionality.

54. The international commitments mentioned in articles 113 to 115 of the Constitution must be referred, prior to ratification, to the Constitutional Court, either by the President of the Republic or by the Prime Minister, or by the President of the National Assembly, or by one tenth of the Deputies. The Constitutional Court ascertains, within one month, whether those commitments contain any provision which is contrary to the Constitution. At the request of the Government, however, or in the event of an emergency, this period may be shortened to eight days. If the finding is in the affirmative, the commitments cannot be ratified.

B. International human rights instruments

55. According to article 47 of the Constitution, the provisions of human rights instruments may be cited before judicial and administrative authorities so long as they have been ratified, even if they have not yet been incorporated in domestic law.

PART TWO: IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD

I. General measures

56. Under article 4 of the Convention on the Rights of the Child, once a State party has ratified the Convention it must do its utmost to ensure observance of the rights defined in this international instrument. It may not shirk its responsibilities on the grounds of economic difficulties but must undertake the necessary measures to the maximum extent of its available resources and, where needed, within the framework of international cooperation.

57. When Gabon ratified the Convention it had already taken a number of measures and actions conducive to the implementation of the Convention. These measures are listed below, together with those established to give effect to the provisions of the Convention.

A. Existing measures to implement the Convention

1. Official measures

58. Details can be found in the paragraphs dealing with the country's legal and administrative framework.

2. Private-sector measures

59. Several non-governmental organizations and associations regulated by Act No. 35/62 of 10 December 1962 are working to protect children, including:

- Association of Gabonese Women Lawyers;
- Women's and Children's Rights Association;
- Human Rights Association;
- "Plus" Human Rights Association;
- Self-defence;
- Gabonese Human Rights League;
- UNESCO Human Rights Club;
- SOS Mwana;
- Caritas (rainbow project);
- Association of Women Teachers of Gabon;

- Association of Parents and Friends of Maladjusted Children in Gabon;

- Association of Teenage Mothers (Responsible Motherhood);

- Association COSE-Enfants;

- Department of Communication (press, radio, television and other media).

B. Measures and mechanisms established to implement the Convention

60. Under article 177 of the Labour Code (Act No. 3/94 of 21 November 1994), children under the age of 16 may not be employed in any company, unless dispensation is granted by decree at the joint initiative of the ministries of labour, health and education after the individual circumstances have been taken into account.

61. There has been a noticeable increase in the number of children under the age of 16 working in the informal sector. Some children work for themselves and at their own speed (as car-washers or car-park attendants) but unfortunately others, including children who are the victims of trafficking (in Benin, Togo or Nigeria), are exploited by adults. The Gabonese Government has set up a committee with representatives of several ministerial departments to find ways to eradicate this terrible practice, which has no place in Gabonese culture.

62. Ordinance No. 001/95, on Gabon's health policy, gives priority to the protection of mother and child and to hygiene and prevention.

63. In reality there is a gap between those hospitals with the latest equipment and ill-equipped health centres. For this reason, a plan of action was produced in 1997 to review national health policy. A national committee was set up by presidential decree to combat acquired immunodeficiency syndrome (AIDS) and sexually transmitted diseases. It consists of the following bodies:

- A joint monitoring committee;

- An ethics committee;

- A national programme to combat AIDS and sexually transmitted diseases, which is run by a coordination board. There are also departmental committees to implement the programme.

64. It has been possible to invoke the provisions of the Convention before judicial and administrative bodies since 1994, when the Convention was ratified. A bill establishing a number of measures to protect the health of women and of mothers and children is before Parliament for adoption.

65. The cooperation programme set up with the United Nations specialized agencies brings together several projects that take many forms.

II. Definition of the child

66. According to article 1 of the Convention, a "child" means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.

67. However, neither the Convention nor the African Charter on the Rights and Welfare of the Child (to which Gabon is a party) indicate when childhood begins: is it at conception, or between conception and birth? Unfortunately, the Convention also takes no position on abortion.

68. Nevertheless, as far as Gabon is concerned, the protection provided by the Convention applies to the child from the moment of conception. Fortunately, the African Charter very specifically defines the age of the child as less than 18 years, without any modification to detract from the statement of principle.

69. Indeed, what would happen if legislation set this age at 10 or 12 years, or if, as we shall see in the case of Gabon, at 21 years? It is necessary to specify here the age at which certain rights or forms of protection are acquired or lost. References in Gabonese legislation to ages of "minority" and "majority" mean different ages depending on whether they come within the scope of civil law, criminal law or social law.

A. Civil matters

70. Gabonese legislation defines a child as a minor or individual of either sex who has not yet reached the age of 21 years (art. 492 of the Civil Code).

1. Marriage

71. The traditional concept of marriage differs from that of marriage under civil law. According to the traditional concept, the protection of the child within marriage meant that marriage was not a matter for the couple as such; rather, parents or family chose their children's spouses, whatever the children's ages. Children aged 10 could therefore be married. The girl was entrusted to the boy's family and grew up with him.

72. Under civil law, men cannot get married until they are over 18 years old, and women must be over 15 (Civil Code, art. 203). However, the President of the Republic may grant dispensation from the age requirement if there are good grounds for doing so. The insane may marry only during a period of lucidity, with the authorization of their guardian and after a favourable recommendation from a psychiatrist or, failing that, a doctor (art. 204).

2. Family relationships

73. Minor children enjoy special protection within marriage and other kinds of family relationships.

3. Parental consent

74. Even when they meet the age requirements, young men or women who have not reached the age of 21 cannot get married without the consent of their father and mother or guardian (Civil Code, art. 205).

B. Criminal matters

75. Sentencing for offences committed by minors varies according to the child's age.

1. When an offence is committed

76. A child under the age of 13 is not criminally liable, however serious the acts committed (Penal Code, art. 56, Code of Criminal Procedure, art. 145, prohibiting imprisonment of a child under 13).

77. A minor aged between 13 and 18 will be the subject of a detention warrant, that is, he will be placed in a special wing of a penal establishment (Penal Code, art. 60) or will be placed by the judge in the custody of a person or institution of his choice until the court takes a decision (art. 57). The minor may be assisted by a lawyer during the proceedings prior to sentencing. The provisions of Act No. 9/83 of 31 December 1983, on pre-trial detention, are applicable to minors.

2. Sexual consent (rape)

78. The Convention recommends that States should protect children from all forms of sexual violence and exploitation, including prostitution and participation in any pornographic production (art. 34). As sexuality is still a taboo subject in Gabonese society, youngsters rarely, if ever, discuss their first sexual experiences or even their sexuality with their parents.

79. Under criminal law, "any sexual act with a minor under the age of 15 is punishable by law" (art. 256) and corruption of a minor under the age of 16 is punishable with imprisonment and a fine (art. 279).

C. Employment and labour matters

80. See article 32 of the Convention, relating to child labour (exploitation).

D. Non-military national service, enlistment in the army and participation in armed hostilities

81. Article 38 of the Convention stipulates that States parties should take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities. When they recruit persons between the ages of 15 and 18, States parties must endeavour to give priority to the oldest. Gabonese legislation provides for enlistment in the

armed forces as from the age of 20 (Act No. 004/98 of February 1998 on the general organization of national defence and public security). Enlistment is not compulsory, as the country has never been involved in an armed conflict.

E. Educational matters

82. In accordance with article 28 of the Convention, Gabonese legislation, in Act No. 16/66 of 9 August 1966 on the general organization of education, defines the fundamental principles underlying the functioning of the educational system, including free schooling, compulsory education between the ages of 6 and 16, and equal opportunities for boys and girls.

83. However, it has to be said that although the legal framework is advantageous to children, the reality is somewhat different. In fact, schooling is not really free for all children, as the provisions of educational policy are not complied with.

III. General principles

84. The Convention is indivisible and its articles are interdependent. However, each article defining the rights of the child must take into account the Convention's four general principles, namely:

- Non-discrimination (art. 2);
- Best interests of the child (art. 3);
- Life, survival and development (art. 6);
- Participation of the child and respect for the child's views (art. 12).

85. These four fundamental principles underlie the philosophy on which the Convention is based. The right to life, survival and development is essential to the implementation of the other rights. The best interests of the child should also guide actions affecting the child's future, as a child is a vulnerable being whose personality is still malleable and educable. Lastly, children's right to express their views freely and to participate in decisions affecting them must be safeguarded, as they are not mere objects but also subjects at law who must be led gradually to assume their rights and obligations.

A. Non-discrimination

86. The right to freedom from discrimination is an overarching priority in the implementation of other rights intended to ensure equality for all in their enjoyment of the rights provided for in the Convention. According to article 2, all those rights apply to all children without exception. The State has an obligation to protect children from all forms of discrimination and to take positive steps to promote respect for their rights.

87. The term "discrimination" as used in the Convention refers to any distinction, exclusion, restriction or preference based on race, colour, sex, religion, language, political, religious or other views, national, ethnic or social origin, property, birth, physical or mental disability or any other situation which has the purpose or effect of nullifying or impairing the recognition or exercise by all, on an equal footing, of all human rights and fundamental freedoms (Implementation Handbook for the Convention on the Rights of the Child, United Nations Children's Fund (UNICEF), Geneva, 1999).

88. The principle of non-discrimination does not conflict with differentiated (or personalized) treatment of each child. In every country in the world there are various categories of children living in unfavourable or "social-risk" situations. These children, who are also called "maladjusted" children, need special help, care or specific measures to eliminate or ease the unfavourable conditions that perpetuate discrimination. This principle therefore affects the exercise of the other rights provided for in the Convention. That is why the State party has an obligation to protect children against all forms of discrimination and to take positive steps to promote respect for their rights.

89. In the case of Gabon, article 2, paragraph 2, of the Constitution is in conformity with article 3 of the African Charter on the Rights and Welfare of the Child and with the International Covenant on Civil and Political Rights, as it provides for the equality of all citizens before the law without discrimination. For example, with regard to recognition of the child, the new Gabonese Civil Code no longer discriminates between natural children and those born of adulterous or incestuous relationships (Civil Code, art. 671). Similarly, Act No. 19/95 of 13 February 1996, on the welfare of the handicapped, contains protective measures for handicapped children and sets forth, as it does for other children, the conditions for treating them.

90. However, although Gabonese legislation is in conformity with international law on the rights of the child, in practice some forms of discrimination can be observed. This is the case, for instance, with the minimum age for marriage (15 years for girls and 18 for boys). It should also be noted that once a girl is married, she no longer enjoys the protection of the Convention. In education, moreover, although the gross school enrolment rate is very high (142 per cent at primary level), the net rate is very low (86 per cent), and this discrepancy affects girls more than boys. This is one of the reasons why women are excluded from positions of responsibility.

91. Unfavourable economic conditions and certain cultural habits continue to perpetuate some forms of discrimination, as in the case of street children and handicapped children, who still, despite the protection of the law, suffer from social discrimination and rejection.

B. Best interests of the child

92. The best interests of the child should be a paramount consideration in any decision concerning the child. The judicial and administrative authorities and everyone concerned with the protection of the child should systematically take them into account.

93. The concept of the best interests of the child comes into its own when some specific provision of the Convention cannot be applied. Thus, when there is a conflict of law (for example between written law and customary law), it is recommended that the law that safeguards the child's best interests should be applied.

94. In domestic legislation, the Constitution is careful to class the education of children as a natural right and a duty that the parents exercise under the supervision and with the help of the State and local authorities (art. 1, para. 16). The Civil Code, in articles 273 to 275, also stipulates that the judge must take into account the interests of the child when ruling on custody of the child when parents separate or divorce.

95. With regard to the progress made in social policy, children figure prominently in the social policy and overall work of the Department of Social Affairs. This work takes the following forms:

- Social welfare, in the form of assistance to families;
- Pre-school care for young children up to the age of five;
- Contributing to children's survival and development by introducing mothers to the basics of child care, hygiene and nutrition;
- Combating the great social evils that affect children's lives;
- Social reintegration: temporary or permanent placement of abandoned or abused children in foster homes (see, for example, decision No. 0052/MASSNCRA/SG/DGAS/DASSASS of 5 May 1992 establishing a commission for the placement of abandoned children).

96. As for the obstacles encountered, although it is clear that the best interests of the child are strongly affirmed in all the legislation mentioned above, it has to be said that the lack of specialized institutions and organizations and the country's cultural heritage and backward religious practices hold back the implementation of government policy in this area.

C. Life, survival and development

97. In the preamble to the Declaration of the Rights of the Child, proclaimed by the United Nations General Assembly on 20 November 1959, it is stated that the child, by reason of his physical and mental immaturity, needs special safeguards and care.

98. The Convention on the Rights of the Child guarantees the fundamental right of the child to life and recognizes this as a universal principle of international humanitarian law. It also recognizes that the right to survival and development to the maximum extent possible is essential for the implementation of the Convention as a whole.

99. There can only be no talk of the survival and development of a person unless that person is alive. The concepts of survival and development have a broad significance that concerns other rights set forth in the Convention. Some of the Convention's provisions deal with the role of parents in the development and well-being of the child and the State's obligation to support them (art. 18). Other articles deal with health, education, child exploitation, violence and torture, as well as rehabilitation measures and the follow-up to and monitoring of their implementation, and define in detail the significance of the principle of life, survival and development.

100. In Gabon, the rights of the child are protected by the Constitution, the Civil Code and the Penal Code. Article 1 of the Constitution deals with the right to freedom of personal development (para. 1) and guarantees the right to health and the protection of the environment (para. 8).

101. Article 78 of the Civil Code covers the right to life and provides that the human person is a subject at law from birth to death. Article 79 notes, however, that whenever the child's interests so require, the child is a subject at law after conception provided that he or she is born alive and viable.

102. In the Penal Code, attacks on the child's life are punishable under articles 223 to 229; homicide, wounding by negligence and failure to render assistance to a person in danger are punishable under articles 223 to 229 and 246 to 249; and article 244 of the Code protects the life of the child by punishing abortion.

103. At the same time, contraception other than for therapeutic purposes is prohibited by Ordinance No. 64/69 of 4 October 1969. However, a new law liberalizing contraception in keeping with the spirit of the 1990 National Charter of Freedoms is in the process of being enacted.

104. Physical and psychological ill-treatment is punishable under articles 271 to 281 of the Penal Code. There are stiffer sentences for offences committed on the person of a child under the age of 15. For example, the punishment for the rape of a child under the age of 15 is imprisonment (Penal Code, art. 256).

Progress achieved

105. Gabon recognizes the child's right to life and protects the child from conception onwards thanks to an ambitious birth rate policy adopted in response to the country's weak demographic structure. To guarantee the life of the child and mother, the Government is planning to improve the legal framework by means of a new law now being enacted which will liberalize contraception, organize family planning and establish special protective measures for those concerned.

Obstacles encountered

106. Banning abortion has had some harmful consequences for young girls, as reflected in the deaths of mothers and children following traditional abortions (using magic potions) or modern abortions (using non-pharmaceutical means).

D. Respect for the views of the child

107. Article 12, paragraph 1, of the Convention calls on States parties to assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. Paragraph 2 stipulates that children are to be provided with the opportunity to be heard in any judicial and administrative proceedings affecting them.

108. The Convention seeks to have the child considered to be an active subject at law. Respect for children's views does not mean giving children the right to self-determination but recognizing their right to participate in decisions that affect them. Children can therefore protect themselves against certain abuses by those with authority over them (judges, parents, teachers) and with responsibility for their guidance or participation in decisions.

109. In Gabonese legislation, respect for the child's views is guaranteed by article 1, paragraph 2, of the Constitution, on freedom of conscience, opinion, expression and communication, by the Civil Code (particularly in articles 205 to 212) with regard to marriage and by the Penal Code with regard to hearing the child's point of view in court cases.

110. In cases of ill-treatment or imprisonment or in deciding which parent is to be given custody of the child in cases of separation, the court asks the Youth Protection Service to seek the child's views.

111. There are, however, obstacles. Parents tend to tell their children how to behave. This is a result of the influence of custom, which prohibits freedom of thought and conscience within families. However, children's right to freedom of opinion is observed to vary according to their parents' social origin. In some families, children are not given the chance to make decisions. This attitude is a mistaken interpretation of article 1, paragraph 16, of the Gabonese Constitution, which authorizes parents to guide children in their religious and moral education. It is important to encourage, disseminate and stress the importance of communication and dialogue between parents and children in order to end taboos.

IV. Civil rights and freedoms

112. This heading covers the child's right to:

- A name and nationality (Convention, art. 7);
- Preservation of identity (art. 8);
- Freedom of expression (art. 13);
- Freedom of thought, religion and conscience (art. 14);
- Freedom of association and peaceful assembly (art. 15);

- Privacy (art. 16);

- Access to appropriate information (art. 17);

- Freedom from torture or other cruel, inhuman or degrading treatment or punishment (art. 37).

A. The child's identity

113. Articles 7 and 8 of the Convention concern the child's right to civil status (name and nationality) and right to preserve that identity and to receive State assistance in preserving it or, where necessary, re-establishing it. They also concern children's right to know and be brought up by their parents.

1. Right to a name

114. Articles 93 to 111 of the Gabonese Civil Code deal with names. Every Gabonese person must have a name, to which their father's name and possibly one or more given names will be added (art. 93). The Gabonese legislators have taken a series of precautions to ensure that all children can have a name, regardless of the circumstances of their birth or the status of their parents.

115. Legitimate children and natural children who are recognized by their father bear the father's name if that name is hereditary or if the father so decides (art. 94 (a)). Otherwise, the name is given according to custom (art. 94 (b)). If paternity is denied, the child's name is chosen by the mother (art. 94 (c)). Every legitimate or recognized natural child of a foreign father must bear a Gabonese name given by the mother, together with the father's name (art. 94 (c)). A child not recognized by the father will bear the name of the mother (art. 95), under the conditions set forth in article 94. An adoptive father may, if he has a legitimate interest, be authorized to add his name to that of the adopted child (art. 97).

116. However, if a girl minor marries, she retains her patronymic and may add her husband's to it (art. 98). Children's given name or names are registered by the parents at the registry office, or by the registrar if filiation has not been established (art. 99). There are no restrictions on which given names may be accepted by public officials even if the names are not part of established customs (art. 102). The President of the Republic may authorize a change of name where there is good cause (art. 101). Any such change applies by right to any minor children of the person concerned, once their birth certificate has been amended (art. 102).

117. The surname or given name cannot be acquired or lost by prescription and any agreement concerning the name is null and void, except in the case of the rules on company names, trade names and trademarks (arts. 104 and 105). Proof of a person's surname and given names is provided by the certificates issued by the registrar (art. 106). Articles 108 to 111 specify that the use of a name must be protected. Accordingly, all persons may demand to be called by their usual surname and given names. Also, a person may object if his or her name is used improperly or misappropriated by a third party. If these rights are infringed, the bearer of the name may call on the court to put an end to the confusion and may claim compensation for the injury suffered.

2. Right to a nationality

118. Article 1 of the Code on Nationality provides that Gabonese nationality is the legal relationship which since 17 August 1960, when Gabon became a sovereign State, has bound individuals to the Gabonese State (para. 1). Consequently, everyone who has Gabonese nationality has it on the same grounds (para. 3).

119. However, there are legal restrictions in electoral matters, notably for people of foreign origin, who may stand for election only after 10 years (under the former code, the new one being in the process of adoption).

120. The provisions on nationality contained in duly ratified and published international treaties and agreements take precedence over the law establishing the Code of Nationality and are applicable even when they contradict it (art. 2, para. 3).

(a) Attribution of Gabonese nationality as nationality of origin

121. Gabonese nationality is the nationality of origin of all persons having at least one parent of Gabonese origin, except for the children of diplomatic or consular agents of foreign nationality, and of all persons who, at the time of birth and no matter where they are born, have at least one parent with Gabonese nationality. This provision applies to those born after 17 August 1960 (art. 9, paras. 1 and 2).

122. On 17 August 1960 Gabonese nationality became the nationality of origin of all persons who were domiciled in Gabon on that date, as well as of their spouse and children (art. 10, para. 1), all persons who, even if not domiciled in Gabon on that date, have at least one parent of Gabonese origin (art. 10, para. 2) and newborn children found in Gabon who are presumed, until proven to the contrary, to have been born in Gabon (art. 12).

(b) Attribution by means of recognition

123. The following may apply to be recognized as having Gabonese nationality as their nationality of origin:

- Persons born in Gabon whose parents are not of Gabonese origin;
- Persons born in Gabon who are the children of diplomatic agents or career diplomats of foreign nationality;
- Persons born in Gabon or who have at least one parent of Gabonese nationality, pursuant to article 10;
- Persons born in a State or territory sharing a border with Gabon or on an island located in the sea within 400 miles of Gabon;

- Persons whose original Gabonese nationality was relinquished on their behalf when they were minors;

- Persons given shelter in Gabon before the age of 15, who were brought up in Gabon by the welfare services, by a person having Gabonese nationality or by a foreigner whose habitual place of residence is Gabon (art. 14).

(c) Acquisition of nationality as a result of adoption

124. A minor adopted by a person of Gabonese nationality acquires Gabonese nationality upon adoption (art. 19). Similarly, minors, including adopted minors, whose parents' Gabonese nationality has been re-established or whose parents acquired Gabonese nationality by naturalization pursuant to articles 21 and 23 of the Code on Nationality, acquire or recover, if need be, Gabonese nationality on the date the re-establishment or naturalization takes effect (art. 20). In the light of these provisions of the Code on Nationality, therefore, it can be seen that a child born in Gabon, or even a child with only one Gabonese parent, can enjoy Gabonese nationality and all the concomitant rights.

3. The child's civil status

(a) Notification of birth

125. According to article 169 of the Civil Code, the registrar must be notified of a birth within three days in the case of children born in communes and the chief towns of districts and within one month in the case of children born elsewhere. A declaration may be made by the doctor or midwife present at the birth if the mother or father or someone acting on their behalf is unable to do so. It specifies the child's sex, the date, time and place of birth, the child's surnames and given names, and the full names and occupation of the parents and the person declaring the birth (Civil Code, arts. 167-170). The heads of rural settlements (village chiefs, heads of groups and cantons) must ensure that births in their districts are declared to the nearest registry office before the deadlines set out in the Civil Code (art. 170, para. 2).

126. In the case of births on a ship of the Gabonese navy or on a Gabonese aircraft, the captain of the ship or aircraft prepares a certificate which is then sent for registration to the registry office in the first arrondissement in the capital (Civil Code, art. 174).

(b) Foundlings

127. Anyone finding an abandoned newborn baby is required to notify the registrar in the place where the baby is discovered. A detailed report is prepared, specifying, in addition to the details included in article 154 of the Civil Code, the date, time, place and circumstances of the discovery, the apparent age and the sex of the baby, any distinguishing features that might help identify the baby and the name of the institution or person entrusted with the baby. This report is dated and entered in the records of the registry office (art. 171, para. 2). On the basis of this information, the registrar prepares a certificate which serves as a birth certificate.

(c) Gabonese children born abroad

128. The birth certificate for a Gabonese child born abroad is drawn up outside Gabon by the foreign authorities and registered, either automatically or at the request of the child's parents, by the diplomatic or consular agents of Gabon responsible for the territory in the official registers kept by them (art. 159, para. 1).

129. If no notification of the birth is received before the legal deadline, the registrar can record the birth only by registering a decision of the civil court (a supplementary decision) containing the statements relating to the notification of the birth. The competent court and registrar are those of the place of birth of the child concerned (art. 172, para. 1). If this place is not known, the competent court is the one in the place of domicile of the applicant and this court decides where the decision will be registered (art. 172, para. 2). If the date of birth is known or thought to be known, the decision is mentioned beside that date in the margin of the registry books (art. 172, para. 3).

130. A decision that an adopted child has ceased to belong to his or her family of origin replaces the decision registering the birth. It should contain all the statements relating to birth certificates (art. 173).

131. The following obstacles are encountered in implementing these provisions:

- The cost of the supplementary decision, which discourages some parents from registering their child if they miss the legal deadline;
- The distance between the birth-registration centres and the parents' home;
- Ignorance of the legal deadlines for notification;
- Ignorance of the importance of registering the child and of the compulsory nature of registration.

132. Many foreign children do not have identity papers because they entered Gabon illegally or because of their parents' negligence. It also happens that when parents separate, one of them keeps the child's identity papers.

4. Filiation

133. Filiation is the link between parents and children. It can be legitimate (Civil Code, art. 391), natural (art. 414), adulterine or incestuous (arts. 435 and 436). Proof of legitimacy is provided by marriage between the father and mother (art. 393), by the birth certificate or by the uninterrupted possession of the status of legitimate child (art. 395). Proof that it is natural, adulterine or incestuous is provided by the birth certificate or recognition by the father and mother (arts. 414, 415 and 435).

134. It should be noted that all children born outside marriage, even those born of adulterous or incestuous relationships, are made legitimate by subsequent marriage between the father and mother if their filiation has been legally established before marriage or if the father and mother recognize them at the time of marriage (Civil Code, art. 438).

135. Anyone may, using any form of evidence, challenge the natural filiation resulting from a birth certificate, recognition or possession of status (art. 434). Maternity or paternity suits are filed with a view to protecting the child, who has a right to a family. When the child is a minor, therefore, they are brought on the child's behalf by his or her representatives (art. 429).

136. However, a paternity suit is not admissible if it has been established, either medically or otherwise, that the putative father is not the father (art. 428). The suit must be brought within two years of the child's birth or, if the supposed mother and father have lived together or if the supposed father has contributed for some time to the child's upkeep, within the year following the couple's separation or the father's last contribution (art. 432). If the suit is not brought while the child is a minor, the child may bring it only for a two-year period following attainment of majority or for a two-year period following the date on which he or she is deprived of paternal filiation by a court decision or the date on which maternal filiation is established (art. 432, para. 2). Paternity or maternity suits are discussed in the judge's chambers and only the decision is made public (art. 433).

5. Family relationships

137. Under the provisions of articles 9 and 10 of the Convention, children have the right to live with their parents, unless to do so is considered incompatible with the best interests of the child. They also have the right to maintain contact with both parents if they are separated from one or both of them.

138. In addition, children and their parents have the right to leave any country and to enter their own for the purpose of family reunification or to keep up relationships with family members. In domestic legislation, article 1, paragraph 14, of the Constitution asserts the importance of family relationships.

139. Articles 493 and 494 of the Civil Code stipulate that children of all ages owe a duty of respect and honour to their father and mother and other ascendants, just as the latter have a duty to keep and raise them until they reach the age of majority or emancipation. Article 501 of the Code specifies that children must keep up relationships with their parents and other ascendants.

140. The Penal Code sanctions parents' abandonment of their family, the abandonment of a pregnant woman (art. 271) and non-representation of a child (art. 280).

B. Freedom of expression

141. Article 13 of the Convention reaffirms the right to freedom of expression guaranteed to every individual by the Declaration of the Rights of Man and of Citizens of 26 August 1789. Children also have the right to seek, receive and impart information and ideas provided that public order is respected.

142. In conformity with article 13 of the Convention, article 1, paragraph 2, of the Gabonese Constitution states, that freedom of conscience, thought, opinion, expression and communication and the freedom to practise one's religion are guaranteed to all, provided that public order is respected.

143. It is clear that children in Gabon have traditionally not had the right to speak out very much, but this situation is changing. There is therefore a need to organize and increase the outlets in all media where children can express themselves, as they do in the children's parliament set up by the National Assembly.

C. Freedom of thought, conscience and religion

144. This right, as defined in the 1966 International Covenant on Civil and Political Rights and as set forth in article 14 of the Convention, involves the freedom to have or to adopt a religion or belief of one's choice and to manifest it in public or private, including, for example, by performing certain practices and traditional rituals.

145. Article 1, paragraphs 2 and 16, of the Gabonese Constitution guarantee these freedoms while reserving the right of parents to decide on the child's moral and religious education within the framework of compulsory schooling. Freedom of worship is guaranteed by Act No. 35/62 of 10 December 1962, concerning associations. In practice, children follow the religion of their parents until they become adults, although there has been a surge in support for the "awakened" churches ("églises éveillées"), which children sometimes join without consulting their parents. Nevertheless, there is a need to tighten the regulations on the recognition of religious associations.

D. Freedom of association

146. This right, which is set forth in article 15 of the Convention, stresses the active participation of children in society and also reflects article 12 of the Convention, on children's right to express their views freely. The only limitations applicable concern respect for public order and moral standards. At the same time, children can learn about their rights and promote them within the framework of associations and peaceful assemblies.

147. In Gabon, Act No. 35/62 of 10 December 1962 guarantees this right, subject to the limitations prescribed by law in the interests of national security, public safety or public order, or to protect health, public morals and the rights and freedoms of others. At the practical level, there are lay, political and religious youth associations such as:

- The youth wing of the Gabonese Democratic Party;
- Jeunesse étudiante chrétienne (Young Christian Students);
- Jeunesse ouvrière chrétienne (Young Christian Workers);

- Scouts;

- Associations of young Christians against AIDS;

- Association jeunes et santé sur la reproduction (Young People's Reproductive Health Association).

148. It is hoped that youth associations will become real centres for raising awareness of the major problems threatening to undermine children's future.

E. Protection of privacy

149. The right to privacy as set forth in article 16 of the Convention is applied without discrimination. It protects the child's privacy in a variety of situations involving the family, the home or the institutions or centres where the child may be placed, as well as in the child's correspondence, relationships and communication with other people like doctors, schoolteachers or ministers and control of the environment in which the child lives and files or records concerning the child.

150. The Constitution and certain Gabonese laws guarantee and protect every citizen's privacy. For example, article 1, paragraphs 5 and 12, of the Constitution guarantee the confidentiality of correspondence and the inviolability of the home and the mail.

151. The same applies to the protection of children's privacy when they are in conflict with the law. For example, the hearing in camera of cases involving minors (Code of Criminal Procedure, art. 147) is intended to protect their privacy, as are the omission of convictions from a minor's police record (art. 230 (e)), the ban on press publication of reports on cases involving minors and the sentences to which anyone ignoring this ban is liable (art. 147).

152. However, despite these provisions, children's privacy is not respected by parents, because children are traditionally seen as mere objects, not as subjects at law. In this respect, it is observed that children's personal and intimate belongings are routinely checked and children have no private space to be alone (children of different ages, parentage and sex often have to share the same room).

F. Right of access to information

153. Article 17 of the Convention attributes a positive role to the media, which, by disseminating material of benefit to children, may contribute to their physical and mental health and serve as a valuable teaching tool. When children's rights are violated, the media help to expose the facts. However, the media can be harmful when they are badly organized and misguided. They can then have a negative influence on children. The "media" here refers to all audiovisual media, the press, writings, posters, the theatre, music and so on.

154. The following media and bodies exist in Gabon to implement article 17 of the Convention:

- Department of Communication;
- National Communication Council;
- Television;
- Radio;
- The press;
- Cultural centres;
- "Internet Gabon" services;
- The National Library;
- Street theatre;
- "Espace Jeune", a television programme that gives young people a chance to speak out;
- Dance, songs and music, as part of various cultural events;
- Annual festival of culture;
- Annual music festival;
- Twinning arrangements with national and foreign schools;
- Distance-learning opportunities via the National Centre for Distance-Learning;
- The cross-sectoral IEC (Information Education Communication) programme;
- Reading centres;
- Listening booths.

155. As part of its work or at the request of parents, the National Communication Council censor programmes that are harmful to children's education or morality or to moral standards in general. Access to information should be made easier for all children by keeping prices low in places where information is available and by increasing the variety and number of libraries, theatres and documentation and information centres.

G. Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

156. Article 37 stipulates that no child shall be subjected to torture, other cruel treatment or punishment or unlawful arrest or detention. Capital punishment and life imprisonment without possibility of release are prohibited for offences committed by persons below 18 years of age.

157. Every child deprived of liberty shall be separated from adults unless it is considered in the child's best interests not to do so. The child has the right to legal assistance and the right to receive visits from his or her family. The Gabonese Constitution establishes this right in article 1, paragraph 23. Article 272 of the Penal Code provides for punishment for child abuse.

158. In practice, the President can pardon any person sentenced to death. It should also be noted that children have special quarters in short-stay prisons.

159. However, it should be noted that police detectives and prison officers torture detainees during preliminary investigation and detention.

V. Family environment and alternative care

160. This section deals with relations between children, their parents or legal guardians, and the State, which should provide the legal framework for those relations and help parents to exercise parental authority in accordance with the general principles of the Convention. It refers to a number of articles, which are summarized below.

161. Article 5 defines the family in a broad sense, and includes relations with others involved in the direction and guidance of the child in a manner consistent with his or her evolving capacities.

162. Article 18 deals with the common responsibilities of parents, and with State assistance. As the natural, basic unit of society and the primary environment for the socialization of any individual, the family is protected by the State. Parents have the primary responsibility for the upbringing of the child and must provide adequate protection, care, education and living conditions. The State has an obligation to assist parents in the performance of their responsibilities towards children. If parents fail in their responsibilities, the State shall provide the child with the necessary help and assistance, in accordance with the rights contained in the general principles of the Convention.

163. Article 9 establishes the right of the child to know and live with his or her parents. If a child needs to be separated from his or her parents, article 9 recommends that judicial and other procedures should be carried out with due regard to the best interests of the child and, to the extent possible, to his or her views. There are many possible reasons why a child may be separated from his or her parents, including death, divorce, war, imprisonment, fostering, adoption and expulsion. In all cases, the State shall ensure that the child is protected, by facilitating and promoting contact with family members and providing the child with an

alternative family environment in a public or private institution. It shall also ensure the functioning of the body responsible for supervising and monitoring such alternative environments.

164. Article 10 obliges States parties to deal in an expeditious and humane manner with applications by parents or children to enter or leave the country for the purpose of family reunification. It pays particular attention to the situation of displaced persons or refugees fleeing from war, and to that of economic migrants. It is related to article 22, on refugee children, and article 38, on armed conflicts.

165. Article 27 recalls to some extent articles 5 to 7 and 18, insofar as it highlights parents' joint responsibility and State assistance, where necessary, in providing children with material, financial, moral and spiritual support. The State shall, in particular, take appropriate measures to recover maintenance for the child and ensure respect for the right of every child to the fullest possible development of his or her potential.

166. Article 20 introduces the notion of temporary or permanent deprivation of family environment, for the various reasons mentioned above. It emphasizes that the State should help the child to find alternative care, with priority given to family placement. The State shall ensure that a child in such an alternative family environment is treated with due humanity, dignity and respect. The aid provided by the State to foster families when needed helps reinforce an eroding family and social solidarity.

167. Article 21 deals with adoption. The Convention draws States parties' attention to cases of adoption for financial or commercial gain. It obliges them to set conditions for adoption that make it possible for the child to maintain contact with his or her natural family.

168. Article 11 obliges States parties to take measures to prevent children from being abducted from their own country or illegally kept outside the State's jurisdiction; and to ensure that children abducted from another State by persons other than their parents or brought into the country illicitly by one of their parents are returned to the place of origin. It encourages States to accede to multilateral agreements such as the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

169. Lastly, articles 25 and 39 deal with the monitoring of treatment provided to a child, which should aim to promote social reintegration.

A. Parental guidance

170. According to articles 493 et seq. of the Gabonese Civil Code, parents are responsible for a child's upbringing until he or she reaches the age of majority, or even beyond. The parents take the major decisions concerning the child's life. Article 501 of the Code brings Gabonese legislation into line with the African Charter on the Rights and Welfare of the Child by stating that the family environment is the best place for a child to grow up and develop. Parents should therefore specially protect that environment.

171. According to the Education Act, parents must place their children in school between the ages of 6 and 16. However, children's rights are restricted by various factors, including:

- The social, affective and cultural environment in which they live;
- Overcrowding in urban primary school classes, which leads to children dropping out;
- Initiation into traditional rites by grandparents, without the parents' consent.

172. In order to prevent the occurrence of such situations, which inhibit children's development, the State should make fresh, more intensive efforts to raise awareness in the community, which is another factor in children's education in the broad sense.

B. Parental responsibility

173. Article 18 of the Convention states that both parents jointly have primary responsibility for the upbringing of a child, and that the State should help them in the performance of those responsibilities by rendering appropriate assistance.

174. In customary terms, family responsibility for a child is very extensive, since the child belongs to the community as a whole.

175. Article 1, paragraph 16 of the Constitution emphasizes parents' duties towards their children and articles 494 to 501 of the Civil Code deal with the obligation to maintain and educate a child until the age of majority or emancipation. The child is subject to the authority of his or her parents and that authority includes other rights and obligations, including the care and education of the child, administration of the child's property and consent to the child's marriage, adoption or emancipation (art. 495).

176. This authority is exercised jointly by the father and mother and any decision or action taken by one parent is deemed to have the agreement of the other (art. 496). However, in certain situations the parents may lose this authority. The legislation lists the following situations, among others:

- The parents are unable to state their wishes;
- The parents have relinquished all or part of their authority by placing the child in the care of a public service or a duly recognized or authorized establishment or association;
- The parents have surrendered or been deprived of all or part of their authority;
- In the event of divorce, legal separation, death, etc.

177. In addition to these measures, and as part of its policy of assisting parents in guaranteeing children's rights, the State has established:

- An extended vaccination programme;
- School medical services;
- A welfare service for civil servants;
- A supplementary benefit fund for contract workers and the poor;
- A social security fund for private-sector workers;
- A national nutrition centre;
- Free school transport for schoolchildren (although a charge will be introduced as from the 2000/2001 school year);
- Free school supplies (proposal); and
- Teacher training centres.

178. Children may be deprived of affection as a result of polygamy, family break up and the increasing numbers of single parent families. In 1998, for example, out of 138 children taken into care by the Department of Social Services (Youth Protection Service), 69 were from broken or single parent families, and 68 of those were female-headed households.

C. Children deprived of a family environment

179. The family in Gabon is protected under the Constitution, article 1, paragraph 14 and the Civil Code, articles 252 et seq., as the basis of society and the best environment for the child's development.

180. A number of alternative structures are provided under customary law, including:

- In the event of the death of one of the parents, care of the child is entrusted to the other parent (art. 527);
- If the parents are put in prison, the court notifies the social services, which shall provide for the care of the child if the family does not do so;
- In the event of divorce, according to article 273, paragraph 4 of the Civil Code, the Youth Protection Service shall investigate which of the parents can offer the child the best living conditions.

181. Children whose parents live in a consensual union are protected by law in the same way as the children of a legal marriage. Generally speaking, if parents are absent, family solidarity takes over. Guardianship and adoption are other alternative measures for children deprived of a family environment. Under article 1, paragraph 14 of the Constitution, children are placed under the special protection of the State. Provision is made for the guardianship of abandoned or orphaned children in article 527 of the Civil Code. Provision is made for adoption in article 445, paragraphs 3 and 4, and for the care of children in conflict with the law in article 56 of the Penal Code.

182. The conditions for adoption are regulated by law: simple adoption is adoption that does not involve a break with the natural family; full adoption involves a break with the natural family. The conditions depend on age, civil status, morality, financial means, etc. (Civil Code, arts. 449 et seq.).

183. However, the law makes adoption difficult, economic difficulties place family solidarity under strain and guardianship is sometimes abused.

184. The State must therefore help families in difficulty, simplify adoption procedures and ensure that guardianship is genuine and effective.

D. Family reunification and displaced children

(a) Family reunification

185. According to the Constitution, article 1, paragraph 1, and the Civil Code, article 501, children shall be maintained by their parents. The courts and social services work towards family reunification. In 1998 and 1999, social services attempted 46 family reconciliations.

(b) Involuntarily displaced children

186. Gabon has adopted legislation to prevent the removal of minors from the national territory and child abduction is penalized under article 275 of the Penal Code. Kidnapping of children by one of the parents has always occurred, however. In addition, refugee children have been entering Gabon for some time, and the State will have to reinforce those parts of the Penal Code dealing with protection of all children, including expatriate children.

187. The Hague Convention on the Civil Aspects of International Child Abduction should be applied, particularly in the case of expatriate children working in Gabon who are exploited by those responsible for their displacement: in 1998, 582 expatriate children aged seven and above were found to be working as housemaids, babysitters, salespersons (fruit and vegetables, pharmaceuticals and traditional medicines, inter alia) and car mechanics.

E. Standard of living

188. Article 1, paragraph 16 of the Constitution and articles 494 and 481 of the Civil Code deal with parents' obligation to maintain and bring up their children and their obligation to pay maintenance.

189. In terms of schooling, the State no longer helps parents to improve their own education and personal development, since in practical terms parents then find it very difficult to put their children's well-being first. However, legislation is being enacted to address this situation. Although pay levels are good in comparison with other countries (the minimum wage (SMIC) is CFAF 44,000), they have not kept up with the cost of living.

190. When a child is deprived of his family environment, efforts are made to set family solidarity mechanisms in motion so that the child can preferably remain in his or her original environment. If necessary, the child may be placed in an adoptive family. Between 1980 and 1998, for example, 40 children were adopted by private individuals (source: Department of Social Affairs). As a last resort, the child may be placed in an institution. During the same period, one child was returned to his country of origin and four were placed in foster families. However, there are cases of bogus guardianship arranged with a view to receiving social benefits without fulfilling the corresponding obligations.

191. Adoption procedures and conditions are very restrictive:

- A child aged 15 or over may not be adopted;
- The child must have neither mother nor father;
- Any person wishing to adopt the child must not already have a legitimate child; and
- A couple wishing to adopt must be legally married.

VI. Health and well-being of the child

192. According to the World Health Organization (WHO) definition, health is a state of complete physical, mental and social well-being, not merely the absence of illness or infirmity. Article 29 of the Convention reflects the articles containing the general principles of the Convention, i.e. non-discrimination, the best interests of the child, its life and survival, and the development and involvement of the child.

193. A number of international programmes and plans of action have been prepared for United Nations Member States, including:

- The World Summit for Children, held in September 1990, which established health and education objectives to be attained by 2000, in particular in the area of primary health care and vaccination in Africa;
- The International Conference on Population and Development, held in Cairo in September 1994, which focused world attention on malnutrition as a cause of infant mortality;

- The fourth World Conference on Women, held in Beijing in 1995, which emphasized adolescents' right to health and to protection against commercial sexual exploitation, and girls' right to education;

- International mobilization to combat the HIV/AIDS pandemic.

194. As regards Gabon's legislative framework, Ordinance No. 1/95 of 14 January 1995 establishes the country's health policy guidelines. This Ordinance attaches great importance to the mother and child, in particular in articles 1 to 38. Health is defined as a state of complete physical, mental and moral well-being that ensures the growth and development of the individual child and a well-balanced social life (art. 1). The general principles of child health protection are then outlined, including State guarantees, to the extent possible. The Ordinance links the protection of mother and child in order to reduce maternal morbidity and mortality rates and as a means of preventing childhood diseases and high-risk pregnancies (art. 10). Articles 1, 12 and 13 establish priority action to be taken on the ground by mother and child health centres with responsibility for mothers' and children's health care. They also give staffing specifications: doctors, midwives, public health nurses, nutrition experts, health educators and social workers working with health officials and traditional midwives.

195. Health legislation also provides for free, compulsory health checks for children of pre-school age and for children's hospitalization charges to be paid by the competent State services.

196. Statistical data make it possible to evaluate the success of the Government's health policy as regards promotion of mother and child health. The rate of breastfeeding in Libreville, for example, is 17.7 per cent, professionally-assisted deliveries 79.7 per cent, and antenatal care 86.5 per cent (source: Ministry of Health).

197. The Department of Health organizes primary health facilities in the major centres and rural areas. The health education service and vaccination service constitute a single Department.

198. Despite the existence of facilities and the high rate of consultations for antenatal care (85 per cent), mortality rates remain very high: infant mortality is 94 per 1,000, child mortality (under-fives) is 154 per 1,000 and maternal mortality is 500 per 1,000.

199. In the area of child health care, the national services collaborate closely with international bodies and programmes such as WHO, UNICEF, the United Nations Population Fund (UNFPA), UNDP, the European Development Fund (EDF) health project, financial support projects for Gabon and a number of health programmes of action.

200. The National School for Health and Social Welfare produces trained staff qualified in health and social welfare.

201. Despite the amount of legislation and draft legislation on the subject, health care is still not free of charge, the cost of medicines is still high and social security legislation is not reflected in practice. However, social services provide a free medical check-up service in crèches and nursery schools.

202. Articles 16 to 29 of the 1995 Ordinance deal with the extension of vaccination coverage and follow-up, free compulsory vaccination and health checks for children of pre-school age and care provision for sick children.

203. Vaccination coverage in 1993 was 51.5 per cent in urban areas and 45.6 per cent in rural areas.

Health indicators

Vaccination coverage (source: Ministry of Health and Population)	Urban areas	Rural areas
BCG (tuberculosis)	98%	96%
DPTP3 (diphtheria, pertussis, tetanus and polio)	74%	56%
Measles	67%	62%
All vaccines	56%	46%
Access to drinking water (source: General Population and Housing Census)	78%	40%
Exclusive breastfeeding up to 4 months	14%	
Rate of use of oral rehydration therapies (source: UNICEF)	25%	
Rate of HIV among the sexually active population (source: National Anti-AIDS Programme, 1997)	4%	
Percentage of the rural population living more than one hour away from a clinic (source: World Bank)	86%	
Women who have had at least one abortion (source: MSR (Maternité Sans Risque) survey)	50%	
Newborns with a birth weight of less than 2,500 g	10%	

204. A multiple-indicator survey carried out by UNICEF in 1995 put the rate of exclusive breastfeeding at about 15 per cent.

205. In order to optimize the operation of mother and child health-care institutions and services, the State should increase the resources allocated to that area and enhance its understanding of resource utilization.

206. Other possible measures include:

- Promotion of community involvement in health by encouraging self-help among community residents and prioritizing prevention;
- Development of cooperation between all institutions and State services involved in mother and child health;
- Establishment of partnerships with competent national and international NGOs;
- Access to (generic) medicines and quality health care;
- Development of family planning programmes.

VII. Education, leisure, recreation and cultural activities

A. Education

207. Article 28 establishes the right to education as a basic need for every child. It emphasizes that such education should be based on equal opportunity, in accordance with the general principles of the Convention. The State should make every effort to guarantee free primary education and to encourage girls to attend school, in order to narrow the gap between girls and boys. This principle was reaffirmed at the 1990 World Summit for Children.

208. As regards the aims of education, article 29 reflects the worldwide consensus that education should develop children's potential to the full, prepare children for responsible life in a free society and develop respect for others and for the natural environment. It reaffirms the principle of freedom of choice of education, while acknowledging that a number of factors may hinder the free exercise of that right, including poverty and inadequate educational infrastructure.

1. Gabonese legislation

209. The Constitution recognizes the various principles of the Convention in article 1, paragraph 16, which stipulates that children's education is a natural right of parents and a duty that they perform under the supervision, and with the help, of the State and the community. With regard to school education, parents have the right to decide on their children's moral and religious education. The State should ensure that the curriculum is broad enough to permit the physical, intellectual and moral development of the child.

210. In order to achieve these aims, the Gabonese State has instituted the following executive bodies:

- Ministry of Preschool Education, now attached to the Ministry of Education;
- Ministry of Social Affairs, which used to include an education service;
- Ministry of Higher Education;
- Ministry of Health.

211. There are also a number of laws and decrees regulating the education sector, including:

- Act No. 16/66 of 9 August 1996, on the general organization of education in Gabon;
- Act No. 21/84 of 29 December 1984, which regulates private education;
- Act No. 20/92 of 8 March 1993, which establishes special rules for education sector officials;
- Decree No. 16/92 of 9 August 1992, which establishes the powers of the Ministry of Education;

- Decree No. 69/MENESRS/SE/HCEN/IGEN/DGEP of 9 August 1990, which establishes a ministerial commission to consider applications and proposals for in-service training for national education officials;

- Decree No. 1/PMMIDSM/MENJSCFPPG/MESRE/MFBP of 8 February 1995, on the reorganization of technical and vocational training;

- Decree No. 619/PR of 1 May 1961, establishing the jurisdiction of the Minister of Education.

212. These measures notwithstanding, the closure of a number of specialist schools such as Agondjé school and the Mélen farm school has raised major questions. There is also a faculty of medicine at the Omar Bongo University in Libreville. The need for qualified personnel who are aware of the situation in the country is one of the State's concerns. There is a literacy service within the Ministry of Culture, which also helps children with educational difficulties.

213. Gabon allocates nearly one tenth of the State budget every year to national education, and in 1998 16.5 per cent of the investment budget went to education. School is free and compulsory up to the age of 16.

Table 5: Education indicators

	Average	Female	Male
Literacy (source: General Population and Housing Census, 1993)	72%	66%	79%
School enrolment rates	Average	Girls	
Primary (gross)	142%	140%	
Primary (net)	86%	86%	
Lower secondary (gross)	53%	51%	
Lower secondary (net)	15%	15%	
Upper secondary (gross)	16%	14%	
Upper secondary (net)	5%	4%	
School attendance rates	Average	Girls	Boys
Age 12-18 (gross)	81%	78%	85%
Age 12-15 (gross)	90%		
Age 16-18 (gross)	70%		
Percentage of students	Average		
who reach class CM2	60%		
who reach class 6	30%		
who take the baccalauréat examination	1%		
who complete primary school without repeating a class	3%		
Number of students per teacher	Urban areas	Rural areas	
	73	74	

Source: Ministry of Education, 1995.

2. Analysis

214. Enrolment rates are lower for girls than for boys, particularly after the age of 12. Even more worrying are the appalling repetition and drop-out rates. Of 100 students who start school, fewer than 60 reach class CM2 [last year of primary school], fewer than 30 reach class 6 [first year of secondary school] and only one takes the baccalauréat.

215. Despite the amount allocated by the Gabonese State to education, the principle of free, compulsory education is difficult to apply in practice in all State schools.

216. The school system as a whole does not have a very satisfactory record. The curriculum aims solely to enable schoolchildren to move up to the secondary level, even though the majority of them will not do so. They are therefore ill-prepared for working life. Many of those who do not complete primary education will swell the ranks of the unemployed or turn to crime, and most are condemned to a life of poverty.

217. These problems can be attributed to many factors: serious deficiencies in the management of the education system, inadequate planning, poor distribution of income and a lack of oversight, resulting in a shortage of teaching material, poorly qualified teachers and overcrowded classes. In Libreville there is an average of 100 students per class, which means that many schools are obliged to have two half-day shifts. In rural areas, the ratio is little better, with 40 students per class. In addition, many rural schools are built of flimsy materials and have no furniture or teaching aids. Sixteen per cent of schoolchildren have only one teacher for all six primary years and some schools have no teacher at all.

218. Another factor in school failure is parents' lack of interest in their children's school work. One reason for children dropping out of school is that many parents do not have the means to buy school supplies or to pay private school fees for their children: children may not repeat a year more than once in State schools and must switch to a private school if they wish to continue their studies. Lastly, children find it difficult to organize their free time.

219. The State is aware of these problems and is trying to address them through teacher training and by building schools. The quality of teaching in all Gabon's schools must be improved and vocational training curricula must be expanded with the introduction of courses in agriculture, stockbreeding and fishing in the middle school. These courses should be short (between two and four years) and tailored to children who are unable to keep up on longer courses or who have been excluded from the system for other reasons, including poor retention capabilities.

220. Schools must be built for children with disabilities, along the lines of the Nzeng Ayong school for the deaf, and private schools must be supported. A training centre for the deaf and blind is planned at Lébamba. NGOs also offer basic vocational training for children with mental, physical or sensory disabilities.

221. In addition to these measures and concrete actions, educational facilities must be developed further in order to implement article 1, paragraph 18 of the Constitution, which stipulates that the State shall guarantee children's and adults' access to education, vocational training and culture.

B. Leisure, recreation and cultural activities

222. Key expressions here are rest, play, leisure, recreation and cultural activities. Rest is a right that is incompatible with the idea of disturbing the peace. In terms of leisure, States parties should organize sporting, recreational (cinema) and cultural activities. Article 31 draws their attention to the need for urban development that provides green spaces for rest, play and other recreation and cultural activities.

223. In Gabon, the Ministry of Justice, Culture, Sport and Leisure defines State policy on leisure, recreation and cultural activities, as stipulated in the Constitution with regard to equal access to culture for all children (art. 1, para. 18). In the provincial capitals, the Ministry is closely involved at the organizational level. In domestic legislation, under Decree No. 951/MJACSE/DS of 1 October 1970, on the establishment of the Gabonese School and University Sports Office, events are organized throughout the country every year in all fields of sport with the aim of identifying future representatives of Gabon for the various African competitions.

224. Also worthy of mention are Decrees Nos. 602/PR/MJSC17/DS of 30 September 1969, on the organization of civil sport, and 44/PR/MJS of 15 April 1974, on the establishment of the National Youth and Sports Institute, which is responsible for training qualified sports and recreation staff.

225. As regards the protection of minors, Ordinance No. 59/76 of 1 October 1976 bans minors aged under 21 from public places after 9 p.m.

226. Under the Decentralization Act, No. 15/96, communities may organize recreational activities at the local level in pursuit of State policy. The Associations Act, No. 35/62 of 10 December 1962, regulates sports and theatre associations. The regulations also authorize the opening of cinemas and other leisure facilities, such as games rooms.

227. In practice, domestic legislation is rarely followed. The leisure and sports facilities that exist are unevenly distributed across the country. They are to be found only in major urban centres and access is frequently difficult. In schools, the facilities are often old or non-existent. There are still schools with no playgrounds and there is no organized sport except football, despite Gabon's poor results at the African level.

228. Culture, sport and recreational activities need to be revitalized, and in some cases organized, in Gabon. Economic difficulties have meant that little attention has been paid to this sector, so important for human development. The State should make every effort to reinstate these activities, as indeed a number of private organizations are doing, including companies such

as Elf-Gabon, Shell-Gabon and Comilog, and youth movements such as the Gabonese Scouts and Guides, the "Brave Hearts" (*Coeurs vaillants*) and the "Brave Souls" (*Ames vaillantes*), and associations such as JEC, JEN, Caritas, SOS Mwana, COSE-Enfants, CEMEA Horizons nouveaux, AFEG, ASMARE, Club Unesco and AFJG.

VIII. Special protection measures

229. This section deals with children in situations of emergency, such as child victims of armed conflicts and exploitation and those in need of social reintegration measures. It also concerns children in conflict with the law.

A. Children in situations of emergency

1. Refugee children

230. Article 22 emphasizes the need to protect the rights of refugee children and provide them with appropriate humanitarian assistance, in conformity with international humanitarian instruments such as the Geneva Conventions of 12 August 1949 and Additional Protocols thereto, and the 1951 Convention and 1967 Protocol relating to the Status of Refugees. States parties are asked to cooperate with national and international humanitarian institutions and organizations, such as the Office of the United Nations High Commissioner for Refugees, to foster family reunification and facilitate procedures for the granting of identity (refugee status, nationality, re-establishment of name, etc.).

231. It is difficult to determine the number of refugee children in Gabon, as the Office of the United Nations High Commissioner for Refugees is currently taking a census of all persons holding refugee status in Gabon.

232. With regard to protection of refugee children, Gabon cooperated with the Office of the High Commissioner and with NGOs in receiving a large number of refugee children as a result of the war in Biafra, Nigeria. Although international instruments such as the African Charter, in its articles relating to refugees, stipulate that such children should enjoy the same rights as other children with regard to protection, education, health and employment, they nevertheless encounter many difficulties in daily life:

- Refugee children are not guaranteed automatic entry into the advanced specialized schools called "national" schools;

- There is no national commission responsible for studying their case and providing them with a paper granting them refugee status and the right of asylum;

- Lack of basic documents granting refugees the right to freedom of movement (travel document, birth certificate, etc.);

- Difficulties encountered in the area of family reunification for unaccompanied refugee children;

- Lack of dissemination of the African Charter, which addresses the protection of refugees, among the different strata of Gabonese society;

- Lack of statistics or protection policies in the area of primary health care (doctor's visits, purchase of medicines) and education (UNHCR study fellowships cover only nominal costs and are awarded late, making the children who receive them poorly prepared for the beginning of the school year).

2. Protection of children in armed conflict

233. The provisions of article 38 clearly stipulate that States parties must respect the rules of international humanitarian law applicable to them during armed conflicts. These include the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto, the African Charter on the Rights and Welfare of the Child, and the African Charter on Human and Peoples' Rights. In addition to the special protection granted children involved in armed conflicts, the Convention stipulates that States parties must refrain from recruiting into their armed forces children who have not attained the age of 15 years and must ensure that they do not participate in armed conflicts.

234. This age limit conflicts with article 1 of the Convention, which defines children as human beings below the age of 18 years. Consequently, in 1994 the Commission on Human Rights, at the suggestion of the Committee on the Rights of the Child, established an open-ended inter-sessional working group to elaborate a draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, which would, in particular, raise the age for recruitment and participation in hostilities to 18. A study by Ms. Graça Machel on the impact of armed conflict on children showed that war was harmful to children, particularly "child soldiers", from the physical, mental, moral and spiritual points of view. It also showed that the factors leading to the participation of children in armed hostilities were poverty, children's lack of activity and the increase in conflicts and political tensions, particularly in Africa. Paragraphs 80 and 81 of this report provide additional information on recruitment into the armed forces in Gabon.

3. Recovery and reintegration of child victims

235. Article 39 recommends that measures should be taken to help child victims of any form of violence, neglect, abuse or exploitation. Its broad contents reflect the Convention's provisions concerning child labour (art. 32), drug use and trafficking (art. 33), sexual exploitation (art. 34), sale and trafficking of children (art. 35) and other forms of exploitation (art. 36), torture and other cruel and degrading treatment (art. 37) and armed conflicts (art. 38). It also includes the health and education sectors (arts. 24 and 28) and draws attention to children deprived of a family environment, in particular as a result of judicial measures (arts. 37 and 40). All these categories of child victim require measures for recovery and social reintegration.

236. Ill-treatment of children in Gabon may be physical or moral, and is meted out by members of the traditional extended family. Article 1, paragraphs 4 and 23 of the Constitution establish the right to protection from ill-treatment, as well as articles 223 et. seq., 230 et. seq. and 256 et. seq. of the Penal Code which lay down punishment for all cases of violence against children.

237. Ill-treatment takes a number of different forms. It involves physical or mental cruelty, may consist of physical violence, sexual abuse, abandonment, neglect or exploitation.

238. The Department of Social Affairs recorded 146 cases of abandonment from 1980 to 1999 and 12 cases of ill-treatment in 1998. From October 1997 to May 1998, 25 cases of rape were recorded by the prosecution division of the Libreville Court.

239. The Youth Protection Service of the Department of Social Affairs, which is attached to the court, is responsible for addressing such cases. The service has social workers, special education teachers, a sociologist, a psychologist and a criminologist on staff. They cooperate closely with the justice system to prevent juvenile delinquence and all other forms of ill-treatment. To meet this goal the service performs the following tasks:

- Conducts surveys to assess problems;

- Provides psychosocial treatment for the persons concerned, to help them find solutions to their problems. Such treatment may take the form of individual and family sessions, visits to homes or prisons, academic support and family, academic and even professional reintegration, through apprenticeships or through guidance and support provided by awareness-raising structures such as Agir pour le Gabon or specialized structures such as the Melen psychiatric hospital for the treatment of alcoholics and drug addicts.

240. However, addressing cases of ill-treatment proves to be a difficult matter, for the following reasons:

- Limited reporting of child abuse due to family disapproval;

- Lack of specialized structures for treatment of such cases;

- Scarcity of qualified staff;

- Insufficient cooperation between the competent private structures and the State, as the latter does not provide them with any assistance.

B. Children in conflict with the law

241. Articles 37, 39 and 40 deal in particular with children brought before the law and the treatment they receive.

1. Administration of juvenile justice

242. These provisions address the treatment given to children from the time they are considered to be suspects, either during arrest, investigation or legal proceedings or during pre-trial detention, trial or conviction. They request States parties to establish a minimum age of criminal responsibility and suggest that it should be 18 years or higher.

243. With regard to infringements of criminal law, they also request that States seek to settle conflicts without resorting to legal proceedings and give priority to non-custodial measures by promoting treatment in non-prison settings. They also request that States should prohibit capital punishment and life sentences and refer to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice when applying the criminal law to children (both civilians and members of the military).

244. Gabonese law prohibits capital punishment for pregnant women (Penal Code, art. 10) or persons under the age of 18 (art. 60). For further information, the reader is referred to the definition of the child under criminal law (paras. 75 to 79 of this report).

2. Treatment of children deprived of their liberty, recovery and social reintegration

245. The provisions of articles 37, 39 and 40 were considered in paragraphs 235-244 of this report, dealing with the recovery and reintegration of child victims and the administration of juvenile justice. They are also reflected in article 25 concerning review of placement.

246. Children deprived of their liberty in Gabon serve their sentences in a central prison, where they are incarcerated in a special section. In theory a special regime is provided for such children, but in practice there are no structures for reintegrating them.

C. Children in situations of exploitation

247. Children may be exploited through economic means (labour, sale, traffic), through use of narcotics, abduction, sexual violence, etc. All such forms of exploitation upset the child's physical and mental balance. Articles 32 to 35 of the Convention address this problem.

248. The Convention also draws States parties' attention to the harmful effects on children of child labour. It recommends that States parties should take measures to regulate the minimum age for admission to employment and to set childrens' working hours, the nature of the work they may perform and their conditions of employment, including systems of control and penalties for violation of such provisions.

1. Exploitation in the area of employment

249. Children in Africa work in the informal economic sector under conditions of insecurity and precariousness as regards jobs and wages.

250. Article 177 of the Gabonese Labour Code (Act. No. 3/94 of 21 November 1994) stipulates that children cannot be employed in any enterprise before the age of 16 years, unless

dispensation has been granted by decree at the joint initiative of the Ministers of Labour, Public Health and National Education, with due account taken of the circumstances and of the tasks which they may be asked to perform.

251. The collective agreements, such as those in the banking and public works sectors, contain similar provisions.

(a) International instruments ratified by Gabon

252. In addition to the Convention on the Rights of the Child, Gabon has ratified International Labour Organization Conventions Nos. 5, 10, 33 and 123, which set the minimum age of admission to employment at 14 years. The conventions concern the following sectors: industry, agriculture, non-industrial employment and underground work.

253. In addition, two other instruments are currently being considered by the Ministry of Labour with a view to ratification: Convention No. 138 concerning the Minimum Age of Admission to Employment (1973) and Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999).

254. It should, however, be noted that the provisions of the Labour Code are more restrictive in that they set the minimum age of admission to employment at 16 years rather than the 14 years specified by Convention No. 138.

255. At the regional level, on 27 February 1992 Gabon signed the African Charter on the Rights and Welfare of the Child (1990), article 15 of which contains the same provisions as the Convention on the Rights of the Child, and the relevant ILO instruments concerning the minimum age of admission to employment.

256. Gabon has also ratified ILO Convention No. 6 concerning the Night Work of Young Persons Employed in Industry (1999). The main provisions of this instrument, in particular those contained in article 2, are entirely reproduced in article 168 of the Labour Code. Gabon has also ratified the following conventions:

- Convention No. 52 concerning Annual Holidays with Pay;
- Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise;
- Convention No. 99 concerning Minimum Wage Fixing Machinery in Agriculture;
- Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value.

In addition to ratifying numerous conventions, Gabon has also signed the African Charter on the Rights and Welfare of the Child, article 150 of which contains the same provisions as article 32 of the Convention on the Rights of the Child.

(b) Implementation of the Convention on the Rights of the Child (art. 32 (a))

(b.1) Formal sector

257. According to various reports prepared by the Labour Inspectorate, no child under the minimum legal age is working in the organized sector and, moreover, the dispensations provided for in article 177 of the Labour Code have not been requested. In addition, the joint decree setting the modalities for dispensation was never issued. This attitude must be seen as a deliberate step by the authorities discourage the use of child labour.

(b.2) Informal sector

258. For some time now the use of child labour has been on the increase. Child labour is a complex phenomenon that is principally due to migratory flows of foreign populations which bring into Gabon the practices in use in their countries of origin. Consequently, the overwhelming majority of below-age working children is of foreign origin. This phenomenon is beginning to affect Gabonese children; it may be seen especially in the main cities and has unique features.

259. Unlike foreign children, Gabonese working children are not products of trafficking, nor are they employed by their parents. They have most often left their families or school and are frequently found among the poorest strata of the population. The regime is comparable to that of casual or free-lance workers.

(b.3) Working hours and conditions of employment

260. The Gabonese Labour Code does not provide for specific working hours for children. Article 5 of the common system sets the maximum hours of work per week at 40. However, the same article provides that dispensation may be granted by decree at the initiative of the Minister of Labour.

261. However, the legislator has codified night work by children. Article 167 of the Labour Code prohibits night work by children under 18 years of age, with the exception of establishments where all employees are members of the same family. Article 168 of the Code also lists other cases permitting dispensation from the prohibition set forth in article 167. Other specific measures are provided for in the Labour Code in connection with the following:

- Membership in trade unions (art. 274). Although this question is not related to conditions of employment, it deserves to be emphasized. Minors over 16 years of age may join a trade union of their choice, subject to their parents' or guardians' agreement, in the formal sector;

- Regime of annual leave (art. 185). Children under 18 years of age are entitled to extra annual leave (equivalent to a half-day per effective working day per month).

262. The Labour Code sets a single method for determining wages, for all workers, based on the principle of non-discrimination. In defining an individual's wage no account is taken of his or her age, sex or origin. Employers pay all employees an equal wage for equal skills and work produced.

(b.4) Observation

263. Although the legislation provides for the granting of dispensation from the common system (40 hours of work per week) (Code, art. 165), no decree has been issued for that purpose, and many children working in the informal sector, in particular young domestic workers, are forced to perform night work despite the existence of regulations governing it.

(b.5) Sanctions or penalties aimed at ensuring implementation of the Convention on the Rights of the Child (art. 32)

264. According to article 178 of the Labour Code, the Labour Inspectorate may require a medical examination of children for work which may be injurious to their health and may order the contract rescinded when it finds a child to be performing work that is beyond his or her strength.

265. Infringements of article 177 (minimum age of admission to employment) may be punished by means of the penalties set forth in article 195 of the Labour Code. These include fines ranging from 30,000 to 300,000 CFA francs and, in case of repeat offences, from 60,000 to 600,000 CFA francs, and prison terms ranging from two to six months.

266. Violations of articles 4, 6 and 8, relating to forced labour, employment of a child to prevent him or her from receiving mandatory schooling and discrimination based on sex, race, age, colour, etc., carry heavier penalties (Labour Code, art. 16), ranging from a fine of 300,000 to 600,000 CFA francs, or 600,000 to 1,200,000 CFA francs in case of a repeat offence, to one to six months imprisonment.

267. It is in fact rare for sanctions to be applied. The labour inspectors' scope of action is limited to the organized sector, which by its very nature does not use labour by children under the legal age of admission to employment.

268. However, in order to combat the use of child labour in the informal sector, in March 1998 Gabon became a partner in the International Programme on the Elimination of Child Labour (IPEC). A joint Benin-Gabon commission was established in March 1999 in the context of bilateral cooperation. It is responsible for proposing concrete measures to combat trafficking in and labour by Beninese children in Gabon.

269. With regard to ILO instruments, Gabon is considering ratifying Convention No. 138 concerning Minimum Age of Admission to Employment and Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

2. Use of narcotic drugs

270. The Convention draws States' attention to the fact that psychotropic substances and narcotic drugs may bring about dependence in children and cause them social, physical and mental problems. Article 33 recommends that all measures should be taken to prevent the use of children in the illicit production and trafficking of such substances. In addition to properly-so-called drugs, States should also take measures to control the use of alcoholic beverages, tobacco and other solvents which although they do not fall within the scope of the international instruments, remain harmful to children. The Convention recommends that States parties should cooperate in combating drug use by acceding to international instruments.

271. In Gabon, aside from article 237 of the Penal Code, which establishes penalties for the administration of substances harmful to health, article 208 of the Code punishes anyone who, without authorization, cultivates, owns, offers, sells, acquires, buys or uses substances or plants classified by regulation as narcotic drugs (opium and its derivatives, heroin, morphine, etc.). The penalties were made more severe by Act No. 19/93 of 27 August 1993, amending article 208 of the Penal Code. Article 209 bis of the Penal Code also establishes penalties for drunk and disorderly conduct.

272. The Youth Protection Service of the Department of Social Affairs assumes the costs of social, academic and professional reintegration. There are, however, some obstacles:

- The Central Office for Drug Control is experiencing some operational difficulties;
- The Interministerial Commission to Combat Drug Addiction has not been very active;
- There are not enough appropriate structures or qualified staff for the care of young drug addicts.

3. Exploitation and sexual violence

273. Exploitation and sexual violence against children are important concerns of States as the twentieth century draws to a close. They take various forms ranging from physical ill-treatment through mental cruelty. They include the sale of children, abduction, prostitution, pornography, paedophilia and sexual harassment. International instruments such as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the documents of the World Congress against the Commercial Sexual Exploitation of Children, held at Stockholm in August 1996, contain recommendations for the protection of children from such immoral behaviour.

274. Sexuality remains a taboo subject in Gabon. Generally speaking, young people discuss sexuality with their parents rarely if at all. At the legislative level, articles 260 to 263 of the Penal Code lay down punishment for prostitution, procuring and indecent assault. Article 265 of the Code lays down punishment for any person who commits or attempts to commit a sexual act on the person of a child under 15 years of age.

275. Practically speaking, despite outreach efforts to address sexuality-related problems among teenagers, conducted by the media, NGOs and State agencies, especially the Ministries of National Education, the Family and the Advancement of Women and Social Affairs, this subject remains a taboo at the family level. This being the case, the entities involved must continue and strengthen their efforts to raise awareness of the evils represented by sexually transmitted diseases and AIDS among young people.

4. Sale, traffic and abduction

276. The provisions of article 35 of the Convention reflect article 21 on adoption (concerning protection of children adopted abroad), article 32 on economic exploitation and article 34 on sexual exploitation. They include such subjects as rape and indecent assault. Paragraphs 102 and 104 of this report deal with the penalties established by the Penal Code for such acts, and paragraphs 75 et seq, which relate to the definition of the child in Gabonese criminal legislation, also refer to this subject.

D. Children belonging to a minority or an indigenous group

277. Despite the Convention's aim to provide full protection of the rights of the child, article 30 might appear to be superfluous. In this article the Convention emphasizes the child's right to peaceful enjoyment of lifestyles and beliefs which are not harmful, however strange they may seem to others. These provisions emphasize the rich diversity of the cultures of the world in the framework of human rights and the general principles of the Convention.

278. Article 2 of the Gabonese Constitution lays down the equality of all citizens without discrimination.

279. Practically speaking, there are 40 ethnic groups, including a few minorities, but this situation does not prevent indigenous people from enjoying their cultural life, practising their religion or using their own language together with the other members of their group. Academically speaking, the children of minorities may continue to practice their culture freely while attending public educational facilities. With regard to criminal procedures, interpretation services are authorized.

IX. Observance of established norms

280. Article 41 of the Convention recommends that States parties should amend their domestic legislation and conduct a critical examination of their practices before ratifying the Convention. Doing so gives them the opportunity to remove anything that is not in conformity with the spirit of the Convention or to enter reservations (art. 51) to a clause of the Convention which runs counter to their national legal system

281. By way of example, Gabon should have standardized the different minority ages applying to children contained in its legislation before ratifying the Convention. For this reason, Gabon needs to enact a law setting the age of majority at 18 years.

X. Implementation and entry into force of the convention

282. As far as articles 42 to 54 are concerned, suffice it say that consent to be duly bound by a given Convention through signature, ratification or accession, binds a State to implement it in good faith. The authority implementing it does so on behalf of the State. After ratification or accession, the obligations deriving from the Convention take precedence over domestic law.

283. The Convention on the Rights of the Child, adopted on 20 November 1989 by the United Nations General Assembly, entered into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession. For each State member the Convention enters into force on the thirtieth day after its deposit with the Secretary-General of the United Nations of its instrument of ratification or accession.

284. The members of the Committee on the Rights of the Child serve in their personal capacity, representing neither their State nor any organization. They give their views and opinions with complete objectivity and independence. Article 42 of the Convention relates to the States parties' obligation to make the Convention widely known. Indeed, rights can be claimed only if their holders are aware of them. Consequently, the signatory States are under the obligation to use all necessary means to make all strata of the population, children and adults, civilians and military personnel alike, aware of the Convention. The media in all their forms, institutions both State and private, religious and secular groups (churches, trade unions) are invited to participate. The Convention also recommends that its text should be translated into national languages and inserted into school curricula.

285. The establishment of a national committee for children with branches in the provinces will facilitate the monitoring of the Convention and the preparation of reports to the United Nations Committee on the Rights of the Child.

286. Gabon's initial report was drafted at the Government's request, under the supervision of a consultant financed by UNICEF, Ms. Josephine Idzumbiur Assop, a Congolese citizen, with the assistance of :

- Ms. Sonia Meyo, special education teacher, Chief, Specialized Social Assistance Service, Department of Social Affairs;

- Ms. Honorine Nzet Biteghe, judge, UNICEF consultant;

- Mr. Petit Lambert Ovono, President of the NGO COSE-Enfants.